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to apply the teachings of the inventor against him in urging that certain combinations would have been obvious.

We draw particular attention to the patentability of claims 40 and 44, discussed below. These claims so clearly call out structural and functional limitations found nowhere in the prior art (Hildebrand or elsewhere), that their patentability should not reasonably be subject to debate.

#### **CLAIM 24**

##### **TEXT OF CLAIM:**

24. A power supply assembly for powering light emitting diodes (LEDs) in an outdoor line-connected signal, comprising:

- an electrical input for coupling to a source of a.c. line voltage;
- a rectifier coupled to the electrical input and having a rectifier output;
- a line voltage regulating switchmode power supply having a power supply input coupled to the rectifier output and having a power supply output;
- a plurality of LEDs coupled to the power supply output and having multiple current paths for dissipating power and emitting light;
- an electromagnetic interference filter means coupled to the power supply for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and
- a traffic, pedestrian or rail crossing signal housing enclosing the assembly.

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**EXAMINER'S REJECTION:**

The Examiner states that this claim is unpatentable for obviousness over Johnson, U.S. Patent No. 5,463,280, in view of the Power Supply Cookbook and the Motorola data sheet for the MC34261 controller in view of Applicant's Prior Art (APA) and in view of Hildebrand, United States Patent No. 5,075,601. The Examiner states this five-reference combination teaches the whole claim.

With respect to placement of multiple LED current paths with a switching power supply into an outdoor LED signal, the Examiner states the "Applicant's Prior Art (APA) in view of Hildebrand discloses that *it is known* in the art to make use of series-parallel LED array *in a switching power supply* and for their use *in traffic, pedestrian or rail crossing signal housing*." (Emphasis added).

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:**

The Examiner misapprehends the admitted prior art shown in the '645 patent, Figs. 1-3 (the "APA"), as well as the Hildebrand disclosure. Nowhere does the art show "it is known" to use a switching power supply with a series-parallel LED array in a traffic, pedestrian or rail crossing signal. That teaching is provided exclusively by the inventor, in his '645 patent which is the subject of this reissue application. For instance, directly contrary to the Examiner's stated understanding, Figs. 1-3 of the APA show power supplies for series-parallel LED arrays, but they show outdoor signals that *lack any switching whatsoever*. As for Hildebrand, it discloses a pedestrian / traffic signal, but only for a "luminescent tubular lamps," which are fluorescent or neon. ('601 Patent, 1:11-14, 1:20, 1:28, 4:50-53, 6:67).

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Thus, Hildebrand *lacks any LEDs whatsoever*. The only motivation to combine series-parallel LEDs and switching power supplies in a traffic, pedestrian or rail crossing signal comes from Peter Hochstein himself in his '645 patent.

The Examiner seems to have addressed the non-relevant question of whether it would have been obvious to place a series-parallel LED array into an outdoor signal. Thus the Examiner mentions that "use of these LED arrays provides a greater benefit . . . highly desirable for their use in traffic, pedestrian or rail crossing signals housing." This analysis drops the switching power supply out of consideration. Whether or not it would have been obvious to use series-parallel LED arrays in an outdoor signal, the Examiner has not shown or attempted to show it would have been obvious to place a series-parallel LED array *driven by a switching power supply* into an outdoor signal.

Note that the "traffic, pedestrian or rail crossing signal housing" limitation was not part of any of claims 1, 2, 4, 5 or 6 invalidated by the court.

Since the Examiner's stated reasons for rejecting claim 24 are clearly incorrect, claim 24 is patentable over the art of record and should be allowed.

#### CLAIM 25

##### **TEXT OF CLAIM:**

25. A power supply assembly for powering light emitting diodes (LEDs) in an outdoor line-connected signal, comprising:

an electrical input for coupling to a source of a.c. line voltage;

a rectifier coupled to the electrical input and having a rectifier output;

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a line voltage regulating switchmode power supply having a power supply input coupled to the rectifier output and having a power supply output;

a plurality of LEDs coupled to the output of the power supply in at least two current paths, whereby the cessation of current through one current path due to single point failure does not prevent current flow through another current path;

an electromagnetic interference filter means coupled to the power supply for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and

a traffic, pedestrian or rail crossing signal housing enclosing the assembly.

**EXAMINER'S REJECTION:** See discussion of claim 24, above.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of claim 24, above.

#### **CLAIM 26**

##### **TEXT OF CLAIM:**

26. A power supply assembly for powering light emitting diodes (LEDs) in an outdoor line-connected signal, comprising:

an electrical input for coupling to a source of a.c. line voltage;

a rectifier coupled to the electrical input and having a rectifier output;

a line voltage regulating switchmode power supply having a power supply

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input coupled to the rectifier output and having a power supply output;

an LED array having an input connected to the output of the power supply;

an electromagnetic interference filter means coupled to the power supply for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and

a traffic, pedestrian or rail crossing signal housing enclosing the assembly.

**EXAMINER'S REJECTION:** See discussion of claim 24, above.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of claim 24, above. Note that the "LED array" in this case need not be one that provides for multiple current paths.

#### **CLAIM 27**

**TEXT OF CLAIM:**

27. A power supply assembly for powering light emitting diodes (LEDs) in an outdoor line-connected signal, comprising:

an electrical input for coupling to a source of a.c. line voltage;

a rectifier coupled to the electrical input and having a rectifier output;

a line voltage regulating switchmode power supply having a power supply

input coupled to the rectifier output and having a power supply output;

a plurality of LEDs electrically configured such that the failure of a single

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LED results in continued emission of light from a substantial number of the rest of the plurality of LEDs;

an electromagnetic interference filter means coupled to the power supply for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and

a traffic, pedestrian or rail crossing signal housing enclosing the assembly.

**EXAMINER'S REJECTION:** See discussion of claim 24, above.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of claim 24, above.

#### **CLAIM 28**

##### **TEXT OF CLAIM:**

28. A power supply assembly for powering light emitting diodes (LEDs) in an outdoor line-connected signal, comprising:

an electrical input for coupling to a source of a.c. line voltage;

a rectifier coupled to the electrical input and having a rectifier output;

a switchmode power supply coupled to the output of the rectifier for maintaining current and voltage waveforms substantially in phase and for providing a regulated current output with respect to variations in the input line voltage;

a plurality of LEDs coupled to the power supply output and having multiple

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current paths for dissipating power and emitting light;

an electromagnetic interference filter means coupled to the power supply for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and

a traffic, pedestrian or rail crossing signal housing enclosing the assembly.

**EXAMINER'S REJECTION:** See discussion of claim 24, above.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of claim 24, above.

As an additional basis for patentability, the Examiner has not pointed to, or attempted to point to, any motivation in the prior art to combine a *traffic, rail or pedestrian outdoor signal* with a power supply which "maintain[s] current and voltage waveforms substantially in phase and [] provid[es] a regulated current output with respect to variations in the input line voltage." Peter Hochstein is the source of this teaching, not the prior art.

#### **CLAIM 29**

##### **TEXT OF CLAIM:**

29. A power supply assembly for powering light emitting diodes (LEDs) in an outdoor line-connected signal, comprising:

an electrical input for coupling to a source of a.c. line voltage;

a rectifier coupled to the electrical input and having a rectifier output;

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a switchmode power supply coupled to the output of the rectifier for maintaining current and voltage waveforms substantially in phase and for providing a regulated current output with respect to variations in the input line voltage;

a plurality of LEDs electrically configured such that the failure of a single LED results in continued emission of light from a substantial number of the rest of the plurality of LEDs;

an electromagnetic interference filter means coupled to the power supply for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and

a traffic, pedestrian or rail crossing signal housing enclosing the assembly.

**EXAMINER'S REJECTION:** See discussion of claim 24, above.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of claims 24 and 28, above.

### **CLAIM 30**

#### **TEXT OF CLAIM:**

30. A power supply assembly for powering light emitting diodes (LEDs) in an outdoor line-connected signal, comprising:

an electrical input for coupling to a source of a.c. line voltage;

a rectifier coupled to the electrical input and having a rectifier output;



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a switchmode power supply coupled to the output of the rectifier for maintaining current and voltage waveforms substantially in phase and for providing a regulated current output with respect to variations in the input line voltage;

a plurality of LEDs coupled to the output of the power supply in at least two current paths, whereby the cessation of current through one current path due to single point failure does not prevent current flow through another current path;

an electromagnetic interference filter means coupled to the power supply for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and

a traffic, pedestrian or rail crossing signal housing enclosing the assembly.

**EXAMINER'S REJECTION:** See discussion of claim 24, above.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of claims 24 and 28, above.

### **CLAIM 31**

#### **TEXT OF CLAIM:**

31. A power supply assembly for powering light emitting diodes (LEDs) in an outdoor line-connected signal, comprising:

an electrical input for coupling to a source of a.c. line voltage;

a rectifier coupled to the electrical input and having a rectifier output;

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a switchmode power supply coupled to the output of the rectifier for maintaining current and voltage waveforms substantially in phase and for providing a regulated current output with respect to variations in the input line voltage;

an LED array having an input connected to the output of the power supply;

an electromagnetic interference filter means coupled to the power supply for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and

a traffic, pedestrian or rail crossing signal housing enclosing the assembly.

**EXAMINER'S REJECTION:** See discussion of claim 24, above.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of claims 24 and 28, above. Note that the "LED array" in this case need not be one that provides for multiple current paths.

### **CLAIM 32**

#### **TEXT OF CLAIM:**

32. A power supply assembly for powering light emitting diodes (LEDs) in an outdoor line-connected signal, comprising:

an electrical input for coupling to a source of a.c. line voltage;

a rectifier coupled to the electrical input and having a rectifier output;

a current regulating switchmode power supply coupled to the output of the

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rectifier for improving poor power factor, whereby the power supply provides essentially constant current at a power supply output with respect to variations in line voltage input, and whereby current and voltage waveforms are maintained substantially in phase;

a plurality of LEDs coupled to the power supply output and having multiple current paths for dissipating power and emitting light;

an electromagnetic interference filter means coupled to the power supply for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and

a traffic, pedestrian or rail crossing signal housing enclosing the assembly.

**EXAMINER'S REJECTION:** See discussion of claim 24, above.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of claims 24 and 28, above.

### **CLAIM 33**

#### **TEXT OF CLAIM:**

33. A power supply assembly for powering light emitting diodes (LEDs) in an outdoor line-connected signal, comprising:

an electrical input for coupling to a source of a.c. line voltage;

a rectifier coupled to the electrical input and having a rectifier output;

a current regulating switchmode power supply coupled to the output of the

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rectifier for improving poor power factor, whereby the power supply provides essentially constant current at a power supply output with respect to variations in line voltage input, and whereby current and voltage waveforms are maintained substantially in phase;

a plurality of LEDs electrically configured such that the failure of a single LED results in continued emission of light from a substantial number of the rest of the plurality of LEDs;

an electromagnetic interference filter means coupled to the power supply for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and

a traffic, pedestrian or rail crossing signal housing enclosing the assembly.

**EXAMINER'S REJECTION:** See discussion of claim 24, above.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of claim 24, above.

#### **CLAIM 34**

##### **TEXT OF CLAIM:**

34. A power supply assembly for powering light emitting diodes (LEDs) in an outdoor line-connected signal, comprising:

an electrical input for coupling to a source of a.c. line voltage;

a rectifier coupled to the electrical input and having a rectifier output;

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a current regulating switchmode power supply coupled to the output of the rectifier for improving poor power factor, whereby the power supply provides essentially constant current at a power supply output with respect to variations in line voltage input, and whereby current and voltage waveforms are maintained substantially in phase;

a plurality of LEDs coupled to the output of the power supply in at least two current paths, whereby the cessation of current through one current path due to single point failure does not prevent current flow through another current path;

an electromagnetic interference filter means coupled to the power supply for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and

a traffic, pedestrian or rail crossing signal housing enclosing the assembly.

**EXAMINER'S REJECTION:** See discussion of claim 24, above.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of claim 24, above.

### **CLAIM 35**

#### **TEXT OF CLAIM:**

35. A power supply assembly for powering light emitting diodes (LEDs) in an outdoor line-connected signal, comprising:

an electrical input for coupling to a source of a.c. line voltage;

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a rectifier coupled to the electrical input and having a rectifier output;

a current regulating switchmode power supply coupled to the output of the rectifier for improving poor power factor, whereby the power supply provides essentially constant current at a power supply output with respect to variations in line voltage input, and whereby current and voltage waveforms are maintained substantially in phase;

an LED array having an input connected to the output of the power supply;

an electromagnetic interference filter means coupled to the power supply for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and

a traffic, pedestrian or rail crossing signal housing enclosing the assembly.

**EXAMINER'S REJECTION:** See discussion of claim 24, above.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of claim 24, above. Note that the "LED array" in this case need not be one that provides for multiple current paths.

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**CLAIM 37**

**TEXT OF CLAIM:**

37. The assembly according to claims 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 or 35 wherein the switchmode power supply comprises an integrated circuit power supply.

**EXAMINER'S REJECTION:** See discussion of referenced independent claims.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of referenced independent claims.

**CLAIM 38**

**TEXT OF CLAIM:**

38. The assembly of claim 37 wherein the integrated circuit power supply comprises a power factor correcting switchmode converter integrated circuit.

**EXAMINER'S REJECTION:** See discussion of referenced independent claims.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of referenced independent claims.

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**CLAIM 40**

**TEXT OF CLAIM:**

40. The assembly according to claims 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 or 35 further comprising a conflict monitor compatibility circuit, wherein the LEDs provide a high impedance condition in the presence of leakage currents, and the conflict monitor compatibility circuit includes:

a transistor coupled to the LEDs and biased as a switch that switches from an essentially nonconductive condition in the absence of the high impedance condition to an essentially conductive condition in the presence of the high impedance condition; and

a low impedance load in series connection with the transistor and in parallel connection with the LED load,

whereby leakage currents are shunted through the low impedance load, ensuring compatibility with conflict monitors designed for incandescent bulbs.

**EXAMINER'S REJECTION:** See discussion of referenced independent claims.

In addition, the Examiner states, "Hildebrand discloses that it is known in the art to provide the use of an adaptive clamp circuit used to help control leakage currents by providing high impedance if such conditions exist. It would have been obvious to . . . provide an adaptive clamp circuit as taught by Hildebrand, in order to lessen the effects of current leakage inherent to LED circuitry and have a more dynamic response to this recurring problem."



This excerpt suggests the Examiner does not understand the problem solved by claim 40 (and claim 44, below), or the nature of the claimed solution.

"Lessening the effects of current leakage inherent to LED circuitry" does not make sense in this context. Perhaps the Examiner does not realize that the source of the problem leakage currents addressed in this claim is the solid state traffic switch commonly at the side of the road, not the "LED circuitry" in the traffic signal.

"Controlling leakage currents by providing high impedance" also does not make sense. Leakage currents are not "controlled," but rather shunted away from the LED load in the claimed solution. And the claimed mechanism for doing this is a "low impedance load," not what the Examiner calls "providing high impedance."

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of referenced independent claims.

A separate reason for patentability is that the Examiner appears to be comparing the prior art to limitations from cancelled claim 5, rather than current claim 40. Claim 40 does not call out an "adaptive clamp," but rather a series of structural limitations directed to a very specific transistor and load configuration in a conflict monitor compatibility circuit. The Examiner's rationale for rejecting claim 40 refers to the relatively broad "adaptive clamp" concept that is not part of the claim, instead of focusing on the actual structural limitations. The Examiner has also apparently not considered that invalidated claims 5 and 6 were written in means-plus-function form, and thus gained additional breadth through section 112, paragraph 6, equivalency. Several limitations of relatively *narrow* claim 40 are absent from

Hildebrand as follows, and suggested nowhere in the art:

(1) The Examiner has not identified a single transistor in Hildebrand coupled to LEDs (see discussion of claim 24, showing Hildebrand lacks LEDs).

(2) The Examiner has not identified a single transistor in Hildebrand "biased as a switch." Hildebrand is crystal clear that its "dynamic load circuit" is an amplifier, and thus necessarily lacks a transistor-switch. (See 1:49-51: "a two stage inverting D.C. amplifier with a low impedance load and a defined offset voltage;" 6:17-50: "a grounded emitter high gain inverting stage," "closed loop gain of the amplifier," "amplifier output voltage.").

(3) The Examiner has not identified the presence in Hildebrand of the claimed *functional* characteristics of the claimed transistor, even if one substituted Hildebrand's neon or fluorescent lamp for the claimed LEDs. Namely, the Hildebrand circuit does not become "essentially nonconductive" with the absence of a high impedance condition at its neon/fluorescent lamp. Put another way, the *claimed* functional condition of claim 40 *requires* essentially no power dissipation through the pertinent shunt resistor when the signal LEDs are turned on. In sharp contrast, since Hildebrand discloses a negative impedance amplifier rather than a transistor biased as a switch, Fig. 4 of Hildebrand shows there is significant power dissipation at signal operating voltages, 80 to 135 VAC, particularly at the low end of the operating range. Hildebrand thus clearly lacks the functional limitation of an "essentially nonconductive condition in the absence of the high impedance condition."

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**CLAIM 41**

**TEXT OF CLAIM:**

41. The assembly according to claims 24, 25, 27, 28, 29, 30, 32, 33 or 34 wherein the plurality of LEDs comprise a plurality of series-parallel connected LEDs arranged in strings.

**EXAMINER'S REJECTION:** See discussion of referenced independent claims.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of referenced independent claims.

**CLAIM 42**

**TEXT OF CLAIM:**

42. The assembly according to claim 42 wherein the plurality of LEDs comprise a ballast resistor in each string.

**EXAMINER'S REJECTION:** See discussion of referenced independent claims.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of referenced independent claims.

In addition, nowhere has the Examiner pointed to any art teaching or suggesting the ballast resistors of claim 42.

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**CLAIM 43**

**TEXT OF CLAIM:**

43. The assembly according to claims 26, 31 or 35 wherein the LED array comprises a ballast resistor in each string of the array.

**EXAMINER'S REJECTION:** See discussion of referenced independent claims.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion of referenced independent claims.

In addition, nowhere has the Examiner pointed to any art teaching or suggesting the ballast resistors of claim 42.

**CLAIM 44**

**TEXT OF CLAIM:**

44. A conflict monitor compatibility circuit for use in traffic and pedestrian signaling applications, comprising:

an LED load providing a high impedance condition in the presence of leakage currents from a solid state traffic controller switch;

a transistor coupled to the LED load and biased as a switch that switches from an essentially nonconductive condition in the absence of the high impedance condition to an essentially conductive condition in the presence of the high impedance condition; and

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a low impedance load in series connection with the transistor and in parallel connection with the LED load,

whereby leakage currents are shunted through the low impedance load, ensuring compatibility with the conflict monitors designed for incandescent bulbs.

**EXAMINER'S REJECTION:** See discussion of claim 40.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** Claim 44 is the independent version of the limitations of dependent claim 40. It thus stands as a broader invention in that it recites a conflict monitor compatibility circuit without regard to the specific type of LEDs or power supply used.

The discussion above with respect to claim 40 clearly shows as well that claim 44 is patentable over Hildebrand and all other art of record.

#### **CLAIM 45**

##### **TEXT OF CLAIM:**

45. An apparatus for supplying power to an LED array in an outdoor line-connected signal comprising:

a rectifier (32) having an input and an output, said rectifier (32) being responsive to power at said input for generating rectified power at said output;

a power factor correction converter (38) having an input connected to said output of said rectifier (32) and an output, said power factor correction converter (38) being

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responsive to said rectified power at said power factor correction converter input for generating one of constant current and constant voltage at said power factor correction converter output;

an LED array (12) having an input connected to said output of said power factor correction converter (38) for receiving said one of said constant current and constant voltage to illuminate said LED array (12);

an electromagnetic interference filter means coupled to the power factor correction converter for preventing conducted interference from feeding back onto a.c. power lines connected to the electrical input; and

a traffic, pedestrian or rail crossing signal housing enclosing the rectifier (32), power factor correction converter (38) and LED array (12).

**EXAMINER'S REJECTION:** See discussion with respect to claim 24.

**REASONS WHY THE REJECTION SHOULD BE WITHDRAWN:** See discussion with respect to claim 24.

**REJECTIONS DIRECTED TO THE REISSUE OATH**

The rejection based on the reissue oath should be withdrawn, since the originally stated "reissue error" is a proper one under 37 CFR 1.175(a)(1) and MPEP § 1414, regardless of the applicability of the corrective action taken by the patent owner.

The original "reissue error" stated in Peter Hochstein's August 24, 1999 declaration

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was claiming of less than the inventor had a right to claim in the original patent. Mr.

Hochstein states in his reissue declaration:

As one example, my original patent included claims 5 and 6, which are dependent claims directed to an adaptive clamp/conflict monitor compatibility means for solving leakage current problems. . . . I have added a claim directed to a conflict monitor compatibility circuit as an independent claim that is still distinct from and nonobvious over defendants' most pertinent prior art, the Hildebrand '601 patent. At the time I filed my original patent application, I erred by not realizing that I was entitled to independent claim directed to a conflict monitor compatibility circuit that did not have limitations directed to a particular power supply structure.

The "corrective action" Mr. Hochstein refers to above relates to independent claim 44, which calls out a conflict monitor compatibility circuit as an independent claim. The foregoing clearly recites a proper reissue error. MPEP § 1414 refers back to for a listing of proper reissue errors. MPEP § 1402 includes claiming too narrowly or too broadly as the first in the list of *proper* reissue errors.

The Examiner has no basis to consider this declaration "defective" merely because he finds fault with Mr. Hochstein's corrective action (namely, by rejecting claim 44). Indeed, Mr. Hochstein was not even required to explain what his corrective action was, as evident from this quotation from MPEP § 1414:

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In identifying the error, it is sufficient that the reissue oath/declaration identify a single word, phrase, or expression in the specification or in an original claim, and how it renders the original patent wholly or partly inoperative or invalid. The corresponding corrective action which has been taken to correct the original patent need not be identified in the oath/declaration. If the initial reissue oath/declaration "states at least one error" in the original patent and, *in addition*, recites the specific corrective action taken in the reissue application, the oath/declaration would be considered acceptable, even though the corrective action statement is not required.

Even if the Examiner were correct that finding fault with the corrective action provides a basis for considering the reissue declaration to be defective, the Examiner was clearly wrong to reject claim 44. Thus, since claim 44 is properly considered to be allowable over the art of record, there is no reissue declaration "defect" under any view of the applicable requirements.

For these reasons, the rejection for a "defective" reissue declaration should be withdrawn.

#### CONCLUSION

As shown above, the Examiner should reinstate the allowance of all pending claims. The prior art of record does not teach or suggest the claimed inventions, and the reissue declaration is not defective.



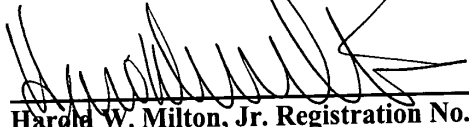
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Accordingly, it is respectfully submitted that the Application, as amended, is now presented in condition for allowance, which allowance is respectfully solicited. Further and favorable reconsideration of the outstanding Office Action is hereby requested.

Respectfully submitted

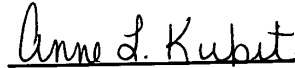
**HOWARD & HOWARD ATTORNEYS, P.C.**

Date 1/16/03

  
\_\_\_\_\_  
**Harold W. Milton, Jr. Registration No. 22,180**  
The Pinehurst Office Center, Suite #101  
39400 Woodward Avenue  
Bloomfield Hills, Michigan 48304  
(248) 723-0352

#### **CERTIFICATE OF MAILING**

I hereby certify that this **RESPONSE TO OFFICE ACTION DATED JANUARY 15, 2003** and attached **REQUEST FOR 2 MONTH EXTENSION OF TIME** for Serial Number **09/382,702** which was filed on **August 24, 1999** is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

  
\_\_\_\_\_  
Anne L. Kubit